

WAYNE COUNTY GENERAL RULES OF COURT AND PRACTICE

Passed By Wayne County Bar Association Effective October 30, 1997

NOTE: Authorization to use this Rule pending.

RULE 1

CIVILITY

The following standards are designed to encourage us, judges and lawyers alike, to meet our obligations to each other, to litigants and to the system of justice, and thereby achieve the twin goals of civility and professionalism, both of which are hallmarks of a learned profession dedicated to public service.

We expect judges and lawyers will make a mutual and firm commitment to these standards. Voluntary adherence is expected as part of a commitment by all participants to improve the administration of justice.

These standards shall not be used as a basis for litigation or for sanctions or penalties. Nothing in these standards supersedes or detracts from existing disciplinary codes or alters existing standards of conduct against which lawyer negligence may be determined.

These standards should be reviewed and followed by all judges and lawyers participating in any proceeding in the Wayne County court system. Copies may be made available to clients to reinforce our obligation to maintain and foster these standards.

Lawyers' Duties to Other Counsel

1. We will practice our profession with a continuing awareness that our role is to advance the legitimate interests of our clients. In our dealings with others we will not reflect the ill feelings of our clients. We will treat all other counsel, parties, and witnesses in a civil and courteous manner, not only in court, but also in all other written and oral communications.
2. We will not, even when called upon by a client to do so, abuse or indulge in offensive conduct directed to other counsel, parties, or witnesses. We will abstain from disparaging personal remarks or acrimony toward other counsel, parties, or witnesses. We will treat adverse witnesses and parties with fair consideration.
3. We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.

4. We will not, absent good cause, attribute bad motives or improper conduct to other counsel or bring the profession into disrepute by unfounded accusations of impropriety.

5. We will not seek court sanctions without first conducting a reasonable investigation and unless fully justified by the circumstances and necessary to protect our client's lawful interests.

6. We will adhere to all express promises and to agreements with other counsel, whether oral or in writing, and will adhere in good faith to all agreements implied by the circumstances or local customs.

7. When we reach an oral understanding on a proposed agreement or a stipulation and decide to commit it to writing, the drafter will endeavor in good faith to state the oral understanding accurately and completely. The drafter will provide the opportunity for review of the writing to other counsel. As drafts are exchanged between or among counsel, changes from prior drafts will be identified in the draft or otherwise explicitly brought to the attention of other counsel. We will not include in a draft matters to which there has been no agreement without explicitly advising other counsel in writing of the addition.

8. We will endeavor to confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement as a means to adjourn discovery or to delay trial.

9. In civil actions, we will stipulate to relevant matters if they are undisputed and if no good faith advocacy basis exists for not stipulating.

10. We will not use any form of discovery or discovery scheduling as a means of harassment.

11. We will make good faith efforts to resolve by agreement our objections to matters contained in pleadings and discovery requests and objections.

12. We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond.

13. We will not request an extension of time solely for the purpose of unjustified delay or to obtain a tactical advantage.

14. We will consult other counsel regarding scheduling

matters in a good faith effort to avoid scheduling conflicts

15. We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars, or other functions that produce good faith calendar conflicts on the part of other counsel. If we have been given an accommodation because of a calendar conflict, we will notify those who have accommodated us as soon as the conflict has been removed.

16. We will notify other counsel and, if appropriate, the court or other persons, at the earliest possible time when hearings, depositions, meetings, or conferences are to be canceled or postponed. Early notice avoids unnecessary travel and expense of counsel and may enable the court to use the previously reserved time for other matters.

17. We will agree to reasonable requests for extension of time and for waiver of procedural formalities, provided our clients' legitimate rights will not be materially or adversely affected.

18. We will not cause any default or dismissal to be entered without first notifying opposing counsel, when we know his or her identity.

19. We will take depositions only when actually needed to ascertain facts or information or to perpetuate testimony. We will not take depositions for the purposes of harassment or to increase litigation expenses.

20. We will not engage in any conduct during a deposition that would not be appropriate in the presence of a judge.

21. We will not obstruct questioning during a deposition or object to deposition questions unless necessary under the applicable rules to preserve an objection or privilege for resolution by the court.

22. During depositions we will ask only those questions we reasonably believe are necessary for the prosecution or defense of an action.

23. We will carefully craft document production requests so they are limited to those documents we reasonably believe are necessary for the prosecution or defense of an action. We will not design production requests to place an undue burden or expense on a party.

24. We will respond to document requests reasonably and not

strain to interpret the request in an artificially restrictive manner to avoid disclosure of relevant and nonprivileged documents. We will not produce documents in a manner designed to hide or obscure the existence of particular documents.

25. We will carefully craft interrogatories so they are limited to those matters we reasonably believe are necessary for the prosecution or defense of an action, and we will not design them to place an undue burden or expense on a party.

26. We will respond to interrogatories reasonably and will not strain to interpret them in an artificially restrictive manner to avoid disclosure of relevant and non-privileged information.

27. We will base our discovery objections on a good faith belief in their merit and will not object solely for the purpose of withholding or delaying the disclosure of relevant information.

28. When a draft order is to be prepared by counsel to reflect a court ruling, we will draft an order that accurately and completely reflects the court's ruling. We will promptly prepare and submit a proposed order to other counsel and attempt to reconcile any differences before the draft order is presented to the court.

29. We will not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.

30. Unless specifically permitted or invited by the court, we will not send copies of correspondence between counsel to the court.

Lawyers' Duties to the Court

1. We will speak and write civilly and respectfully in all communications with the court.

2. We will be punctual and prepared for all court appearances so that all hearings, conferences, and trials may commence on time; if delayed, we will notify the court and counsel, if possible.

3. We will be considerate of the time constraints and pressures on the court and court staff inherent in their efforts to administer justice.

4. We will not engage in any conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in court of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.

5. We will not knowingly misrepresent, mischaracterize, misquote, or miscite facts or authorities in any oral or written communication to the court.

6. We will not write letters to the court in connection with a pending action, unless invited or permitted by the court.

7. Before dates for hearings or trials are set, or if that is not feasible, immediately after such date has been set, we will attempt to verify the availability of necessary participants and witnesses so we can promptly notify the court of any likely problems.

8. We will act and speak civilly to court clerks, court reporters, and secretaries, with an awareness that they, too, are an integral part of the judicial system.

Courts' Duties to Lawyers

1. We will be courteous, respectful, and civil to lawyers, parties, and witnesses. We will maintain control of the proceedings, recognizing that judges have both the obligation and the authority to insure that all litigation proceedings are conducted in a civil manner.

2. We will not employ hostile, demeaning, or humiliating words in opinions or in written or oral commendations with lawyers, parties, or witnesses.

3. We will be punctual in convening all hearings, meetings, and conferences; if delayed, we will notify counsel, if possible.

4. In scheduling all hearings, meetings and conferences we will be considerate of time schedules of lawyers, parties, and witnesses. -

5. We will make all reasonable efforts to decide promptly all matters presented to us for decision.

6. We will give the issues in controversy deliberate, impartial, and studied analysis and consideration.

7. While endeavoring to resolve disputes efficiently, we will be considerate of the time constraints and pressures imposed

on lawyers by the exigencies of litigation practice.

8. We recognize that a lawyer has a right and a duty to present a cause fully and properly, and that a litigant has a right to a fair and impartial hearing. Within the practical limits of time, we will allow lawyers to present proper arguments and to make a complete and accurate record.

9. We will not impugn the integrity or professionalism of any lawyer on the basis of the clients whom or the causes which a lawyer represents.

10. We will do our best to insure that court personnel act civilly toward lawyers, parties, and witnesses.

11. We will not adopt procedures that needlessly increase litigation expense. 12. We

will bring to lawyers' attention uncivil conduct, which we observe.

RULE 2

COURT HOURS

The working hours of the Wayne Circuit and Superior Courts shall be Monday through Friday of each week from 8:30 o'clock A.M. until 4:30 o'clock P.M., except on holidays and those occasions when a Judge is absent due to official business, matters relating to his or her office, illness, personal matters, or vacation. Hours may be extended by the Judge for trials or for other circumstances as the Judge may deem appropriate.

RULE 3

SCHEDULING OFFICE

1. General Provisions.

The Court Scheduling Office of the Wayne Circuit and Superior Courts shall establish, manage and coordinate the calendars of the Wayne Circuit, Superior Court No. 1, and Superior Court No. 2.. The following general provisions shall apply to this Rule:

- a. “Court” shall include the Wayne Circuit Court, Wayne Superior Court No. 1, and Wayne Superior Court No. 2..
- b. “Trial Readiness Certificate” shall hereinafter be referred to as “TRC”.
- c. All matters shall be set by the Scheduling Office in consultation with the Judge of the Court and, where possible, counsel involved in such matter, except as otherwise provided herein.
- d. “Good cause” as used herein shall require a finding

of same by the Court. 2.

Scheduling.

- a. A case shall always be set for the next step, or re-set for the same step in the processing of said case toward disposition.
- b. Matters shall be generally scheduled during the working hours of the Courts as set forth in Rule 2 of the General Rules Of Court.
- c. Non-contested dissolution of marriage cases, contempt citations, and provisional domestic hearings shall be set primarily on Friday mornings, but said matters may also be set on other dates at the discretion of the Judge if time is available.
- d. Cases venued to Wayne County from another county or where one of the Judges from Wayne County has been appointed as a Special Judge on a matter pending in another county shall be integrated into the trial setting procedure at the place where such cases had

progressed upon docketing in Wayne County.

- e. Cases shall be set for trial at the earliest possible date after compliance with the Rule regarding the filing of Trial Readiness Certificates.
- f. Counsel in a case set for trial may agree with counsel in any other case set for trial in the same position (1st place setting, 2nd place setting, etc.) to exchange trial dates upon approval by the Court.
- g. A case set for trial in a second or subsequent position shall be prepared to go to trial with advance notice of seven (7) days. A party may be relieved of this requirement upon prompt application showing good cause.
- h. In the event that any case involves special problems arising out of emergency or other circumstances, which a party determines to require a decision of the Court as to scheduling, an application showing good cause may be filed.

3. Pre-Trial.

- a. A case shall be set for pre-trial conference approximately one (1) month before the trial date. Counsel shall meet at a pre-pre-trial conference and proceed in accordance with Trial Rule 16 of the Indiana Rules of Procedure.

RULE 4

LAW LIBRARY

- A. The Courthouse Law Library will be open during regular Courthouse hours. Attorneys desiring to use it at night or on weekends may make pre—arrangements to be admitted to the Courthouse through the Courthouse Maintenance Department.
- B. The Courthouse Law Library will be locked at all times. A key may be obtained by members of the Wayne County Bar Association. Other persons not having keys may gain access to the Library through any of the Court Bailiffs during regular courthouse hours.
- C. No books may be removed from the Library at any time, except *as* follows:
 - 1. By the Judges. Any Judge removing a book shall insert in that space his color—coded card to indicate the location of the book. The colors are: Circuit Court -Red; Superior Court No. 1 - Green; Wayne Superior Court No. 2 — Black.
 - 2. By the Prosecutor or full-time Deputy Prosecutors on a 24 hour basis, to be checked out through the Circuit Court Bailiff and not to be removed from the Courthouse.
 - 3. By others for the purpose of copying in the Scheduling Office as hereafter set out.
- D. Photocopies may be made in the Scheduling Office at a per page charge as prescribed by the Judges. Photocopies shall be paid for at the time they are made.
- E. Books shall be returned to the appropriate shelves by the person using the books., prior to leaving the Library.

RULE 5

PHOTOGRAPHS, BROADCASTING, TELEVISIONING AND RECORDING PROHIBITED

The Wayne Circuit and Superior Courts hereby specifically adopt
CANON 3-B(13) OF THE INDIANA CODE OF JUDICIAL CONDUCT, ADOPTED BY THE
SUPREME COURT OF INDIANA PROVIDES AS FOLLOWS:

“13) A judge should prohibit broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions, except that a judgment may authorize:

- (A) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record, or for other purposes of judicial administration;
- (B) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings;
- (C) the photographic or electronic recording and production of appropriate court proceedings under the following conditions:
 - (1) the means of recording will not distract participants or impair the dignity of the proceedings;
 - (2) the reproduction will not be exhibited until after the proceedings has been concluded and all direct appeals have been exhausted; and, the parties have consented, and the consent to being depicted or recorded has been obtained from each party;
 - (3) the reproduction will be exhibited only for instructional purposes in educational institutions.

In compliance with this rule, broadcasting, televising, recording and the taking of photographs are prohibited in these areas of each court:

Courtroom
Office of the Judge's Staff
Judge's Chambers

Witness waiting area

The third floor hallways (other than the witness areas) are not included as prohibited areas.

On a limited basis photographs may be taken through the glass at the rear of the Circuit and Superior Courtrooms when the court is not in session and neither the judge nor the jury is present in the courtroom.”

RULE 6

PROTECTIVE ORDERS and CIVIL PLENARY MATTERS

All requests for protective orders (denominated as “P0” for filing purposes) and civil plenary matters (denominated as “CP” for filing purposes) shall be filed in the Wayne Circuit, Wayne Superior No. 1, or Wayne Superior No. 2 courts. The Clerk of Wayne Superior Court No. 3 shall not accept “P0” or “CP” filings.

RULE 7

WAYNE-UNION COUNTY CASELOAD EQUALIZATION PLAN

The Honorable James R. Williams , Judge of Union Circuit Court, is assigned to sit as Judge on cases filed in the Wayne Circuit, Superior No. 1, Superior No. 2, and Superior No. 3 courts in order to attempt to equalize the caseloads among the courts in Wayne and Union counties. Judge Williams shall be available approximately one (1) day per week to preside in those cases assigned to him within such courts.

In furtherance of the goal of caseload equalization, Judge Williams will be placed in the Wayne County random computer case-filing system as to all civil plenary (CP), civil tort (CT), miscellaneous (MI), domestic relations (DR), guardianship (GU), and estate (ES) causes filed in the Wayne County Court system.

Judge Williams will be assigned cases on a pre-determined allotment among those types of cases set forth above in order that the caseloads, as assigned by type of cause, among the courts within Wayne and Union counties are as close to equal as possible. The weighted caseload study will be utilized in determining the exact number and type of cases over which Judge Williams will preside.

In order to further promote the goal of equalization, Judge William C. Hoelscher, Judge of the Wayne Superior Court No. 3, is immediately withdrawn from the panel of Special Judges listed in Rule 16 of the Wayne County Rules Of Civil Procedure. By eliminating Judge Hoelscher from such panel, it is intended that he will not be assigned additional cases. Further, Rule 6 of the Wayne County General Rules Of Court And Practice is being added to provide that the Clerk of Wayne Superior Court No. 3 shall no longer accept for filing requests for protective orders or civil plenary matters. This, too, shall assist in reducing the caseload being handled by Judge Hoelscher. Finally, all driving while intoxicated and related matters and all juvenile matters will continue to be filed in Wayne Superior Court No. 3 where Judge Hoelscher presides. This will, likewise, assist in the equalization process from a time perspective in that Superior Court No. 3 is a specialized court allowing Judge Hoelscher to gain an expertise in certain areas that reduces the actual time required on those certain cases.

As set forth in the District Nine Plan, the Judges of the Wayne and Union counties shall meet every six (6) months to review this Rule and to make any adjustments that may be necessary to better accomplish equalization.